

*** PUBLIC NOTICE ***

OF REVISIONS TO EPA'S STATEMENT OF BASIS FOR A CONSTRUCTION
PERMIT WHICH REGULATES THE EMISSIONS OF AIR POLLUTANTS

Permit No. AZP 04-01

The United States Environmental Protection Agency ("EPA" or "the Agency") requests public comment on revisions to its basis for issuing a permit authorizing construction of the Desert Rock Energy Facility on trust lands of Navajo Nation near Farmington, New Mexico.

On July 31, 2008, the Region 9 office of the EPA issued a final Prevention of Significant Deterioration permit to the Desert Rock Energy Company (DREC) in accordance with 40 C.F.R. § 52.21. The PSD permit granted DREC conditional approval for the construction and operation of a mine-mouth coal-fired power plant on the Navajo Indian reservation approximately 25 miles southwest of Farmington, New Mexico. This project is known as the "Desert Rock Energy Facility." The power plant will be a supercritical pressure pulverized coal facility and is designed for a total nominal generation capacity of 1500 MW (gross), consisting of two 750 MW units equipped with state-of-the-art emission controls.

Following EPA Region 9's July 31 final permit decision, several parties appealed that decision to the Agency's Environmental Appeals Board (EAB). The effectiveness of the final permit was stayed on appeal and the case is ongoing before the EAB. Pursuant to 40 C.F.R. 124.19(d), a Regional Administrator may withdraw portions of a PSD permit at any time prior to the issuance of a decision by the EAB granting or denying review and prepare a new draft permit or statement of basis addressing the portions so withdrawn. On January 7, 2009 EPA Region 9 notified the EAB that it was withdrawing section II.B.3.b (pages 25-27) of its Responses to Public Comments (Docket No. EPA-R09-OAR-2007-1110-120) and section 5 (pages 8-15) of its Responses to Late-Filed Public Comments (Docket No. EPA-R09-OAR-2007-1110-121). These portions of the Region's permitting decision contain EPA's basis for not including limitations on emissions of carbon dioxide in the permit. Region 9 explained that it would reconsider its basis for this aspect of the permit decision in light of recent action by the EPA Administrator and the EAB's decision in *In re: Deseret Power Electric Cooperative*, PSD Appeal No. 07-03 (Nov. 13, 2008).

EPA has prepared an addendum to the statement of basis for the permit which sets forth the basis for the Agency's decision not to include limits on emissions of carbon dioxide in the permit. EPA hereby requests public comment on this addendum and our proposal not to include conditions which regulate emissions of carbon dioxide in the permit that was issued on July 31, 2008. Comments on any other issue related to the permit or the Administrative Record for the permit will not be considered. All comments must be submitted to Joe Lapka of the EPA Region 9 Air Permits Office (contact information provided below). Comments that are hand-delivered or that are sent by fax or email must

be received by February 23, 2009. Comments that are submitted by mail must be postmarked by that date.

Copies of the permit and the addendum to the statement of basis will be available for inspection and duplication during normal business hours at the following locations. It is recommended that you call in advance to arrange a time to view the materials.

Navajo Nation EPA

Contact Person: Lillie Lane

Location: Window Rock, Arizona 86515

Phone: (928) 871-6092

Dine College Library

Address: 1228 Yucca Street

Shiprock, New Mexico 87420

Phone: (505) 368-3500

The permit and addendum to the statement of basis are also available on EPA's website at <http://epa.gov/region09/air/permit/desert-rock/index.html> or may be obtained by contacting Joe Lapka of the EPA Region 9 Air Permits Office:

Joe Lapka

US EPA

75 Hawthorne St (Air-3)

San Francisco, CA 94105

Phone: (415) 947-4226

Fax: (415) 947-3579

Email: DesertRockAirPermit@epa.gov

For building security reasons, if you would like to view the permit or addendum to the statement of basis at EPA's office in San Francisco, please contact Joe Lapka to arrange a visit at least 24 hours in advance.

A final decision regarding the issue addressed in the addendum shall be made after all comments have been considered. Notice of the final decision shall be sent to each person who submitted comments or requested notice of the final decision. The final decision will become effective 30 days from the date the decision is made unless:

1. a later effective date is specified in the decision; or
2. the decision is appealed to the EAB pursuant to 40 C.F.R. § 124.19 (any person who submits written comments on the proposal may petition the EAB to review any part of the decision within 30 days after the decision has been issued. Any person who failed to file comments on the proposal may petition for review by the Environmental Appeals Board only those parts of the final decision which are different than the proposal); or

3. no comments requested a change to the proposal, in which case the final decision shall become effective immediately upon issuance.

Please bring this notice to the attention of all persons who you know would be interested in this matter.

*** END OF NOTICE ***